

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
WASHINGTON, DC 20511

Ms. Emma Best
MuckRock News
DEPT MR 56265
411A Highland Ave
Somerville, MA 02144-2516

May 29, 2019

Reference: ODNI Case DF-2018-00220

Dear Ms. Best:

This responds to your Freedom of Information Act (FOIA) request (Enclosure 1) to the Office of the Director of National Intelligence (ODNI), which was emailed and received on 18 June 2018. Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, you requested **"Copies of all drafted, submitted or received SF-311 forms (<https://www.archives.gov/files/isoo/securityforms/sf311.pdf>) produced in the year prior to the receipt of this FOIA request. SF-311 forms may also be identified as Agency Security Classification Management Program Data."**

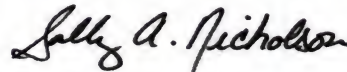
Your request was processed in accordance with the FOIA, 5 U.S.C. § 552, as amended. A thorough search of our records and databases located one record responsive to your request (Enclosure 2). The ODNI identified material requiring withholding, pursuant to exemption (b)(3), which applies to information exempt from disclosure by statute, specifically the National Security Act of 1947, as amended, 50 U.S.C. § 3024(m)(1), which protects, among other things, the names and identifying information of ODNI personnel.

If you wish to appeal our determination on this request, please explain the basis of your appeal and forward to: Office of the Director of National Intelligence, Information Management Division, Washington, DC 20511, within 90 days of the date of this letter.

However, prior to filing an appeal, you may find it helpful to contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you have any questions, please feel free to email our Requester Service Center at DNI-FOIA@dni.gov or call us at (301) 243-1499. You can also contact ODNI's FOIA Liaison by email at DNI-FOIA-Liaison@dni.gov.

Sincerely,



Sally A. Nicholson
Chief, FOIA Branch
Information Management Division

Enclosures

ENCLOSURE 1

ENCLOSURE 1

DF-2018-00220

From: 56265-55781566@requests.muckrock.com
Sent: Monday, June 18, 2018 2:24 PM
To: DNI-FOIA
Subject: Freedom of Information Act Request: SF-311 2017 (National Counterintelligence and Security Center)

JUN 18 2018

National Counterintelligence and Security Center
FOIA Office
Office of the Director of National Intelligence
McLean, VA 22102

June 18, 2018

To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:

Copies of all drafted, submitted or received SF-311 forms (<https://www.archives.gov/files/isoo/security-forms/sf311.pdf>) produced in the year prior to the receipt of this FOIA request. SF-311 forms may also be identified as Agency Security Classification Management Program Data.

I am a member of the news media and request classification as such. I have previously written about the government and its activities, with some reaching over 100,000 readers. As such, as I have a reasonable expectation of publication and my editorial and writing skills are well established. In addition, I discuss and comment on the files online and make them available through non-profits such as the Internet Archive and MuckRock, disseminating them to a large audience. While my research is not limited to this, a great deal of it, including this, focuses on the activities and attitudes of the government itself. As such, it is not necessary for me to demonstrate the relevance of this particular subject in advance.

Additionally, case law states that "proof of the ability to disseminate the released information to a broad cross-section of the public is not required." *Judicial Watch, Inc. v. Dep't of Justice*, 365 F.3d 1108, 1126 (D.C. Cir. 2004); see *Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 814-15 (2d Cir. 1994). Further, courts have held that "qualified because it also had 'firm' plans to 'publish a number of . . . 'document sets'" concerning United States foreign and national security policy." Under this criteria, as well, I qualify as a member of the news media.

Additionally, courts have held that the news media status "focuses on the nature of the requester, not its request. The provision requires that the request be 'made by' a representative of the news media. *Id.* § 552(a)(4)(A)(ii)(II). A newspaper reporter, for example, is a representative of the news media regardless of how much interest there is in the story for which he or she is requesting information." As such, the details of the request itself are moot for the purposes of determining the appropriate fee category.

As my primary purpose is to inform about government activities by reporting on it and making the raw data available, I request that fees be waived.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Emma Best

Filed via MuckRock.com

E-mail (Preferred): 56265-55781566@requests.muckrock.com

Upload documents directly: https://www.muckrock.com/accounts/agency_login/national-counterintelligence-and-security-center-4720/sf-311-2017-national-counterintelligence-and-security-center-56265/?uuid-login=da8a3b25-a849-4220-bdd3-b618d7661684&email=dni-foia%40dni.gov#agency-reply

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News

DEPT MR 56265

411A Highland Ave

Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

ENCLOSURE 2

ENCLOSURE 3

AGENCY SECURITY CLASSIFICATION MANAGEMENT PROGRAM DATA

(Submissions must be unclassified and reach the Information Security Oversight Office (ISOO) no later than November 15 following the reporting period.)

PART A: Identifying Information		
1. Enter the Fiscal Year that this report covers.	1. 2017	
2. Identify the Department, Independent agency, or Establishment that is covered by this report.	2. Office of the Director of National Intelligence (ODNI)	
3. Enter the name and title of the Senior Agency Official (as defined in E.O. 13526, section 5.4(d)) responsible for this report.	3. Mark Ewing, Chief Management Officer (CMO)	
4. Point-of-contact responsible for answering questions about this report:		
4a. Name:	4a. Patricia Gaviria	
4b. Title:	4b. Director, Information Management Division	
4c. Email address:	4c. (b)(3)	
4d. Phone number:	4d. (b)(3)	
PART B: Officials with Original Classification Authority		
5. Enter the number of agency officials whose highest level of original classification authority is TOP SECRET .	5.	10
6. Enter the number of agency officials whose highest level of original classification authority is SECRET .	6.	0
7. Enter the number of agency officials whose highest level of original classification authority is CONFIDENTIAL .	7.	0
8. Total number of officials with original classification authority. (Sum of blocks 5, 6, and 7)	8.	10
PART C: Original Classification Decisions		
<p>Original classification is an initial determination that the information to be classified has not been previously classified by any other authority. It also meets the following conditions: (1) it was classified by an original classification authority; (2) the information is owned by or for, or is under the control of the United States Government; (3) it falls into at least one of the categories from section 1.4 of E.O. 13526; and (4) unauthorized disclosure could reasonably be expected to result in damage to the national security. (Provide information on all original classification decisions, regardless of the media, including those documented and disseminated via email. Do not count reproductions or copies.)</p>		
9. Enter the number of original TOP SECRET classification decisions made during the reporting period with declassification instructions of 10 years or less .	9.	0
10. Enter the number of original TOP SECRET classification decisions made during the reporting period with declassification instructions ranging from over 10 years to 25 years .	10.	9
11. Total number of TOP SECRET original classification decisions. (Sum of blocks 9 and 10)	11.	9
12. Enter the number of original SECRET classification decisions made during the reporting period with declassification instructions of 10 years or less .	12.	0
13. Enter the number of original SECRET classification decisions made during the reporting period with declassification instructions ranging from over 10 years to 25 years .	13.	21
14. Total number of SECRET original classification decisions. (Sum of blocks 12 and 13)	14.	21
15. Enter the number of original CONFIDENTIAL classification decisions made during the reporting period with declassification instructions of 10 years or less .	15.	0
16. Enter the number of original CONFIDENTIAL classification decisions made during the reporting period with declassification instructions ranging from over 10 years to 25 years .	16.	1
17. Total number of CONFIDENTIAL original classification decisions. (Sum of blocks 15 and 16)	17.	1

18. Total number of original classification decisions. (Sum of blocks 11, 14, and 17)	18. 31
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PART D: Derivative Classification Decisions

Derivative classification is the incorporating, paraphrasing, restating, or generating in new form information that is already classified. This includes classification based on classification guides or other source documents. (Provide information on all classification decisions, regardless of the media, including those documented and disseminated via email. Do not count reproductions or copies.)

19. Enter the number of derivative TOP SECRET classification decisions made during the reporting period.	19. 237716
20. Enter the number of derivative SECRET classification decisions made during the reporting period.	20. 493260
21. Enter the number of derivative CONFIDENTIAL classification decisions made during the reporting period.	21. 19520
22. Total number of derivative classification decisions. (Sum of blocks 19, 20, and 21)	22. 750496

PART E: Mandatory Declassification Review Requests

A "Request" is an individual initial review request, regardless of the number of documents or pages to be reviewed as part of the request.

Report only requests for your agency in which your agency is responsible for the final decision.

23. Enter the number of REQUESTS received during the reporting period.	23. 9
24. Enter the number of REQUESTS closed during the reporting period.	24. 19
25. Of the REQUESTS entered into block 24, enter the number of pages that were:	25.
a. Declassified in full.	25a. 67
b. Declassified in part.	25b. 25
c. Denied declassification.	25c. 0
d. Total number of requested pages acted on. (Sum of blocks a, b, and c)	25d. 92
26. Enter the number of REQUESTS that have been unresolved for over one year.	26. 6
27. Enter the AVERAGE NUMBER OF DAYS to resolve each request.	27. 234
28. Enter the number of REFERRED REQUESTS received during the reporting period. (Number of requests referred to your agency from another agency)	28. 7

PART F: Mandatory Declassification Review Appeals

An "Appeal" is an individual request for appeal, regardless of the number of documents or pages to be reviewed as part of the request.

Report only appeals for your agency in which your agency is responsible for the final decision.

29. Enter the number of APPEALS received during the reporting period.	29. 26
30. Enter the number of APPEALS closed during the reporting period.	30. 33
31. Of the APPEALS entered into block 30, enter the number of pages that were:	31.
a. Declassified in full.	31a. 57
b. Declassified in part.	31b. 70
c. Denied declassification.	31c. 0
d. Total number of appealed pages acted on. (Sum of blocks a, b, and c)	31d. 127

32. Enter the number of APPEALS that have been unresolved for over one year.	32.	10
33. Enter the AVERAGE NUMBER OF DAYS to resolve each appeal.	33.	34
34. Enter the number of REFERRED APPEALS received during the reporting period. (Number of appeals referred to your agency from another agency)	34.	15

PART G: Automatic, Systematic, and Discretionary Declassification Reviews

35. Enter the number of pages REVIEWED that were subject to automatic declassification under section 3.3 of E.O. 13526.	35.	186,407
36. Enter the number of pages DECLASSIFIED under automatic declassification .	36.	34,724
37. Enter the number of pages REVIEWED that were subject to systematic declassification under section 3.4 of E.O. 13526.	37.	0
38. Enter the number of pages DECLASSIFIED under systematic declassification .	38.	0
39. Enter the number of pages REVIEWED that were subject to discretionary declassification under section 3.1 of E.O. 13526.	39.	28
40. Enter the number of pages DECLASSIFIED under discretionary declassification .	40.	28

PART H: Internal Agency Oversight

41. Enter the number of CHALLENGES processed by your agency to the classification of information believed to be improperly classified or unclassified . (E.O. 13526, section 1.8)	41.	0
42. Enter the number of CHALLENGES where the classification status was fully affirmed .	42.	0
43. Enter the number of CHALLENGES where the classification status was overturned in whole or in part .	43.	0

PART I: Intelligence Community (IC) Information

This section applies only to IC agencies and IC components of other agencies who *originally apply* the ORCON and ORCON-USGOV dissemination control. This information, along with ISOO's annual inspection reports will be used to inform the annual report to the DNI on the use of classification markings.

Organization's classified disseminated analytic product (as defined in ICD 206 Sourcing Requirements for Disseminated Analytic Product) originally marked ORCON.

44. Enter PERCENTAGE of your organization's classified disseminated analytic products originally marked ORCON .	44.	N/A
45. Enter TOTAL NUMBER of your organization's classified disseminated analytic products originally marked ORCON .	45.	N/A
46. Enter the NUMBER OF REQUESTS approved for expanded dissemination of ORCON in full .	46.	N/A
47. Enter the NUMBER OF REQUESTS approved for expanded dissemination of ORCON in part . Provide explanation for partial denial in part J below.	47.	N/A
48. Enter the number of ORCON expanded dissemination requests DENIED . Provide explanation for denial in part J below.	48.	N/A

Organization's classified disseminated analytic product (as defined in ICD 206 Sourcing Requirements for Disseminated Analytic Product) originally marked ORCON-USGOV.

49. Enter PERCENTAGE of your organization's analytic products originally marked ORCON-USGOV .	49.	N/A
50. Enter TOTAL NUMBER of your organization's analytic products originally marked ORCON-USGOV .	50.	N/A
51. Provide TOTAL NUMBER of reports of potential misapplication of the ORCON marking. Provide background information on each occurrence in Part J below.	51.	N/A
52. Has your organization been NEGATIVELY IMPACTED by information being marked with ORCON or ORCON-USGOV control marking? If yes, provide explanation in Part J below.	52.	N/A

PART J: Explanatory Comments

Use this space to elaborate on any section of this form. If more space is needed, provide as an attachment to this form. Provide explanations for any significant changes in trends/numbers from the previous year's report.

Block 18: There were 31 original classification decisions made (30 supporting IARPA-specific programs, 1 for the IC-wide NIP Budget and Financial Management Security Classification Guide signed in June).

Block 22: In May 2015, ODNI transitioned from a manual counting practice for reporting the number of derivative classification decisions to an automated approach using the embedded classification management tool (CMT). Codes were modified in the tool to capture each derivative decision made by ODNI personnel on classified systems. This significantly reduced the resources required to manage and execute the annual classification count exercise. We noted, however, discrepancies in some of the data tallied which was investigated in FY 2017. The numbers shown reflect one quarterly report extrapolated across the year; this results in a close estimate as to the actual amount of derivative decisions. In FY2018, we expect to receive 4 quarterly reports- spanning the entire year- and will not have to perform this extrapolation. Additionally, added reporting requirements for the CMT are currently being investigated to ensure future data integrity and accuracy.

Blocks 39 & 40: There were 2 documents totaling 28 pages reviewed and declassified under discretionary declassification.

Blocks 44-52: Marked N/A as ODNI is a consumer, not a producer of ORCON data.

Additional details are included in the ODNI Annual Self-Inspection Report: FY 2017.

